The State of New Hampshire
Department of Environmental Services

Robert R. Scott, Commissioner

January 12, 2022

The Honorable Andrew Renzullo
Chairman, House Resources, Recreation and Development Committee
Legislative Office Building, Room 305
Concord, NH 03301

RE: HB 1618–FN, AN ACT adding several perfluorinated chemicals to the list of per and polyfluoroalkyl substances with maximum contaminant levels and establishes a cumulative total for the maximum contaminant level of per and polyfluoroalkyl substances.

Dear Chairman Renzullo and Members of the Committee:

Thank you for the opportunity to comment on HB 1618. This bill would establish the following three new maximum contaminant levels (MCLs) for and per and polyfluoroalkyl substances (PFAS) in addition to standards that currently exist for four other compounds (PFOA, PFOS, PFNA and PFHxS):

1) PFBA: 7 parts-per-trillion;
2) PFBS: 1000 parts-per-trillion; and
3) PFOA, PFOS, PFNA, PFHxS, PFBA and PFBS all combined: 20 parts-per-trillion.

The Department of Environmental Services (Department) is opposed to the bill for the following reasons:

1) **PFBA:** Draft toxicological data for PFBA from the United States Environmental Protection Agency (USEPA) can be used to calculate a drinking water toxicological value that is well over 1000 parts-per-trillion. The basis of the proposed MCL of 7 parts-per-trillion is not supported by scientific evidence at this time.

2) **PFBS**: The proposed MCL for PFBS of 1000 parts-per-trillion is roughly in line with what the Department has estimated a drinking water toxicological value would be. However, PFBS has not been found in drinking water in New Hampshire at these levels to date. Where PFBS is found at levels exceeding 1000 parts-per-trillion in groundwater that is not currently being used as drinking water, one or more of the existing standards for PFOA, PFOS, PFNA and PFHxS are already being exceeded. Additionally, the proposed MCL of 1000 parts-per-trillion for PFBS is undermined by the provision of the bill that establishes an MCL of 20 parts-per-trillion for PFOA, PFOS, PFNA, PFHxS, PFBA and PFBS all combined. This would make the *de facto* standard of PFBS to be 20 parts-per-trillion.

3) **PFOA, PFOS, PFNA, PFHxS, PFBA and PFBS all combined:** At this time, the Department is not recommending a class-based approach for the regulation of these compounds.

> Comprehensive review of scientific literature indicated that differences in the most sensitive health effects, individual toxicokinetics, and a lack of relative potency factors for PFAS do not support the assumption of identical (i.e., 1-to-1) risks from exposure. Additionally, variation in the combinations of functional groups and carbon chain length appear to produce differences in biological activity (e.g. receptor and protein affinity) and the half-lives of individual PFAS. The Department is aware that this is an active area of research and is therefore continuing to monitor publications on methods for this approach. Should a robust and scientifically-defensible approach to group regulation be developed, the Department will consider its application in future development of drinking water standards for PFAS.

The Department is committed to continuing to review the state of the science and to adopt drinking water and groundwater quality standards for PFAS as supported by a consensus of peer reviewed published studies.

Thank you again for the opportunity to comment on HB 1618. Should you have any questions or require more information, please contact Brandon Kernen, Administrator of the Drinking Water and Groundwater Bureau at 603-271-1168 or Brandon.Kernen@des,nh.gov.

Sincerely,

Robert R. Scott
Commissioner

ec: Sponsor of HB 1618: Representative Boyd